

memorandum

DATE: February 13, 2002

REPLY TO:

ATTN OF: Office of Worker Protection Policy and Programs:Peter O'Connell:301-903-5641

SUBJECT: EXEMPTION REQUEST FROM OAK RIDGE OPERATIONS OFFICE

TO: G. Leah Dever
Manager
Oak Ridge Operations Office

This memorandum responds to your May 8, 2001, request for exemption from the requirements contained in Title 10 of the Code of Federal Regulations, Part 835 (10 CFR 835), "Occupational Radiation Protection." Specifically, this response concerns your request for exemption from 10 CFR 835 as the provisions apply to the operation of two security cabinet x-ray units located in the Oak Ridge, Tennessee, Federal building.

The Office of Safety and Health conducted a technical review of the exemption request (attached). The Department of Energy (DOE), Office of Science, forwarded your request recommending approval. On December 13, 2001, the Office of Worker Protection Policy and Programs requested additional information, including a copy of the last State inspection and a copy of the applicable State regulations. Based on our review of all the materials that were provided, I am granting an exemption, with conditions, from the provisions of 10 CFR 835 as they relate to the two security x-ray units.

The attached technical review provides additional information concerning the exemption decision.

The DOE Office of Science concurs with this exemption decision.

Original signed by

Beverly A. Cook
Assistant Secretary
Environment, Safety and Health

2 Attachments

cc w/attachments:
See attached list

Distribution

James Decker, Acting DOE/SC-1

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Radiological Control

Coordinating Committee

Price Anderson Amendments

Act Coordinator - Oak Ridge

Technical Position

Oak Ridge Operations Office Title 10 of the Code of Federal Regulations, Part 835 (10 CFR 835) Exemption Request

On May 8, 2001, the Oak Ridge Operations Office (OR) submitted a request for relief from the requirements contained in 10 CFR 835, "Occupational Radiation Protection," as they pertain to the operation of two security cabinet x-ray units located in the Oak Ridge, Tennessee, Federal building.

As discussed below, relief from the provisions of 10 CFR 835 is justified. The Department of Energy (DOE), Office of Worker Protection Policy and Programs, recommends providing exemption to 10 CFR 835, with conditions, as specifically discussed in this technical position.

Discussion of Exemption Request

General

OR submitted a request for exemption from the provisions in 10 CFR 835 for operation of two security cabinet x-ray units located in the Oak Ridge, Tennessee, Federal building. The x-ray units are covered under an inspection routine based on the rules set forth in the Tennessee State Department of Environment and Conservation Division of Radiological Health, Chapter 1200-2-8, Radiation Safety Requirements for Industrial Radiography Operations.

Requirements From Which Exemption is Sought

OR requests exemption from all parts of 10 CFR 835.

Results of Analysis

Discussion

OR requests exemption for the x-ray units because they are covered under an inspection routine based on the rules set forth in the Tennessee State Department of Environment and Conservation Division of Radiological Health. On December 13, 2001, the Office of Worker Protection Policy and Programs requested additional information from OR, including a copy of the last State inspection and a copy of the applicable State regulations.

In the exemption request, OR commits to have the State of Tennessee annually inspect the operation of the two security cabinet x-ray units located in the Oak Ridge, Tennessee, Federal building. OR's exemption request noted the following specific items were included in a February 2000 Tennessee State Inspection:

X-ray machine console was posted with a radiological warning posting;

Operation of unit is not possible unless all openings are closed and interlocks activated;

Unit is shielded such that exterior locations meet State of Tennessee conditions for unrestricted area;

Unit is constructed to exclude entrance of any part of operator's body during operation;

Operators are instructed in operating procedures;

All units are adequately secured when unattended;

There was no detectable radiation at the entrances or exits to the units and no detectable radiation at the operator positions or in other regularly occupied locations; and

The units comply with applicable State of Tennessee requirements.

On July 23, 2001, the DOE Office of Science forwarded OR's exemption request to the Office of Environment, Safety and Health recommending approval. The Office of Science recommendation stated that because all applicable safety issues are already addressed by compliance with the State of Tennessee requirements, there is no further benefit to be gained by duplicating these requirements, and 10 CFR 820.62(d)(2) provides for granting exemptions if Application of the requirements in the particular circumstances would not serve or is not necessary to achieve its underlying purpose, or would result in resource impacts which are not justified by the safety improvements.®

The Office of Worker Protection Policy and Programs reviewed the last State of Tennessee inspection of the two security cabinet x-ray units located in the Oak Ridge, Tennessee, Federal building. The Office of Worker Protection Policy and Programs also reviewed the requirements specified in the Tennessee State Department of Environment and Conservation Division of Radiological Health, Chapter 1200-2-8, Radiation Safety Requirements for Industrial Radiography Operations.

The Office of Worker Protection Policy and Programs noted that some DOE radiological safety issues are not addressed by compliance with the State of Tennessee requirements. In particular, DOE requirements for monitoring external exposure to radiation and providing and documenting radiation safety training are more restrictive than those from the State of Tennessee. However, the Office of Worker Protection Policy and programs agrees that, with appropriate conditions,

relief still could be granted. The conditions would address ensuring that the State of Tennessee evaluations continue, periodically evaluating that unit operators would not need to be monitored for external exposure and providing biannual radiation safety training.

Concurrence

Relief from the requirements in 10 CFR 835, with conditions, should be provided. This is in recognition of the fact that OR is adhering to regulations from the State of Tennessee applicable to safe operation of the security cabinet x-ray units.

Conclusion

The above exemption meets the criteria for granting an exemption under 10 CFR 820.62:

1. Granting this exemption would be authorized by law;
2. This exemption would not present an undue risk to public health and safety, the environment, or facility workers;
3. The exemption would be consistent with the safe operation of a DOE nuclear facility; and
4. In granting this exemption pursuant to '820.62(d)(2), the DOE recognizes that special circumstances exist that justify exemption because application of the requirements in the particular circumstances would not serve or is not necessary to achieve its underlying purpose or would result in resource impacts which are not justified by the safety improvements.

Based on the above, the Office of Worker Protection Policy and Programs concurs with the request for exemption, with the conditions that:

The units be operated in accordance with Tennessee State Department of Environment and Conservation Division of Radiological Health, Chapter 1200-2-8, Radiation Safety Requirements for Industrial Radiography Operations;

The units and their operations are to be evaluated by the State of Tennessee annually and whenever repairs/replacements of x-ray producing or radiation control components occur;

Unit operators are trained in accordance with 10 CFR 835, subpart J;

OR annually evaluate and verify that unit operators would not need to be monitored for external exposure in accordance with 10 CFR 835, subpart E; and

Records of radiation safety training and the evaluation of unit operators= need for external exposure monitoring are kept in accordance with 10 CFR 835, subpart H.

EXEMPTION DECISION

Pursuant to title 10 of the Code of Federal Regulations, part 820.61 (10 CFR 820.61), the Assistant Secretary for Environment, Safety and Health is authorized to exercise authority on behalf of the Department of Energy (DOE) with respect to requests for exemptions from nuclear safety rules relating to radiological protection of workers, the public, and the environment.

On May 8, 2001, the Oak Ridge Operations Office (OR), filed a request with the Department for exemption from Title 10 of the Code of Federal Regulations, Part 835 (10 CFR 835), "Occupational Radiation Protection."

In particular, OR requested relief from the requirements contained in 10 CFR 835 as they pertain to two security cabinet x-ray units located in the Oak Ridge, Tennessee, Federal building.

The requested exemption is not prohibited by law; will not present an undue risk to the public health and safety, the environment, or facility workers; and is consistent with the safe operation of a DOE nuclear facility.

Under the terms set forth in 10 CFR 820.61, I am the Secretarial Officer granted review and approval authority for exemption requests made with respect to 10 CFR 835. Based on a review of the supporting documentation, I find that the request set forth above has been justified for relief. Specifically, I find that the exemption criteria of 10 CFR 820.62 have been met. I have determined that the exemption meets the special circumstances, described in the technical position prepared by the Office of Worker Protection Policy and Programs, that constitute a sufficient basis upon which to grant this exemption.

On the basis of the foregoing, I hereby approve OR's request for exemption from 10 CFR 835, with conditions:

Conditions:

1. The units are to be operated in accordance with Tennessee State Department of Environment and Conservation Division of Radiological Health, Chapter 1200-2-8, Radiation Safety Requirements for Industrial Radiography Operations.
2. The units and their operations are to be evaluated by the State of Tennessee annually and whenever repairs/replacements of x-ray producing or radiation control components occur.
3. Unit operators are to be trained in accordance with 10 CFR 835, subpart J.
4. OR will annually evaluate and verify that unit operators would not need to be monitored for external exposure in accordance with 10 CFR 835, subpart E.
5. Records of radiation safety training and the evaluation of unit operators= need for external exposure monitoring are to be kept in accordance with 10 CFR 835, subpart H.

Pursuant to 10 CFR 820.66, OR has 15 days from the date of the filing of this decision to file a Request to Review with the Secretary. The Request to Review shall state, specifically, the respects in which the exemption determination is claimed to be erroneous, the grounds of the request, and the relief requested. If no Request to Review is submitted, the exemption decision becomes a final order 15 days after it is filed.

February 13, 2002

Date

Original signed by

Beverly A. Cook
Assistant Secretary
Environment, Safety and Health